

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CHARLOTTE SCHOOL OF LAW, LLC, and
INFILAW CORPORATION,

Plaintiffs,

v.

AMERICAN BAR ASSOCIATION; COUNCIL OF
THE SECTION OF LEGAL EDUCATION AND
ADMISSIONS TO THE BAR, AMERICAN BAR
ASSOCIATION; and ACCREDITATION
COMMITTEE OF THE SECTION OF LEGAL
EDUCATION AND ADMISSIONS TO THE BAR,
AMERICAN BAR ASSOCIATION,

Defendants.

Case No. 3:18-cv-00256-GCM

Senior District Judge
The Hon. Graham C. Mullen

**NOTICE OF SUPPLEMENTAL AUTHORITY RELEVANT TO
THE ABA’S PENDING MOTION TO DISMISS**

Defendants the American Bar Association’s Council of the Section of Legal Education and Admissions to the Bar, the Accreditation Committee of the Section of Legal Education and Admissions to the Bar, and the American Bar Association (collectively, the “ABA”) hereby notify the Court of supplemental authority relevant to the ABA’s motion to dismiss (Dkt. 21).

1. The Complaint in this case contains allegations regarding the two other law schools owned by Plaintiff InfiLaw Corporation, Arizona Summit Law School and Florida Coastal School of Law. *See* Compl. ¶¶ 116, 133. The Complaint alleges that a judgment for Plaintiffs would “benefit . . . the[se] other law schools owned by InfiLaw, Arizona Summit and Florida Coastal.” *Id.* ¶ 133.

2. In opposing the ABA's pending motion to dismiss in this case, Plaintiffs have claimed they are entitled to injunctive relief because "an injunction would benefit Charlotte in the event that Charlotte decides to resume operations as a law school" and "would also benefit InfiLaw and the other law schools owned by InfiLaw in Arizona and Florida." Dkt. 27 at 21.

3. Within two weeks of filing this lawsuit, InfiLaw also filed separate lawsuits on behalf of Arizona Summit and Florida Coastal against the ABA asserting the same causes of action as in this case, and seeking the same injunctive relief. *Arizona Summit Law Sch., LLC, et al. v. Am. Bar. Assoc., et al.*, No. 2:18-cv-01580, Dkt. 1 (May 24, 2018) (D. Ariz.); *Florida Coastal Sch. of Law, Inc., et al. v. Am. Bar Assoc., et al.*, No. 3:18-cv-00621, Dkt. 1 (May 10, 2018) (M.D. Fl.).

4. The court in the Arizona Summit case ruled that the case would proceed on an administrative review track, as the ABA had requested. *Arizona Summit Law School, LLC, et al.*, No. 2:18-cv-01580, Dkt. 32 (Dec. 7, 2018). Shortly before the ABA was scheduled to publicly file its motion for summary judgment and the accreditation record, InfiLaw dismissed the Arizona Summit lawsuit with prejudice. *Arizona Summit Law School, LLC, et al.*, No. 2:18-cv-01580, Dkt. Nos. 36–37 (Jan. 15, 2019). InfiLaw also announced that Arizona Summit Law School is ceasing operations. See <https://www.azsummitlaw.edu/index.php>.

5. The court in the Florida Coastal case denied InfiLaw's motion for a preliminary injunction and granted the ABA's request to have the case proceed on an administrative review track. *Florida Coastal Sch. of Law, Inc., et al. v. Am. Bar Assoc., et al.*, No. 3:18-cv-00621, Dkt. 39 (July 9, 2018), Dkt. 85 (Feb. 8, 2019). While the ABA's motion for summary judgment was pending before the court, InfiLaw also dismissed the Florida Coastal lawsuit with prejudice. *Florida Coastal Sch. of Law, Inc., et al.*, No. 3:18-cv-00621, Dkt. Nos. 86–87 (Feb. 26, 2019).

6. Finally, this Court recently approved a settlement relevant to Charlotte's ability to operate a law school in the future. See *Barchiesi, et al. v. Charlotte School of Law, LLC and InfiLaw Corporation*, No. 3:16-cv-00861-GCM (W.D.N.C.). In their brief requesting that the Court approve the settlement of a class action brought by former students, InfiLaw represented that "[e]ven if the ABA were forced to revoke its probation, [Charlotte School of Law] could not resume operations because it has no state license or access to federal student loans." *Barchiesi, et al.*, No. 3:16-cv-00861-GCM, Dkt. 198 at 22 (Jan. 4, 2019). This Court relied on that representation, finding that there were no additional funds available to compensate damaged students and that the settlement was fair. *Barchiesi*, 1/10/2019 Hr'g Tr. at 62:22-63:3; 68:10-13.

7. Following these developments, it is even more clear than it was when the ABA filed its pending motion to dismiss that Plaintiffs cannot obtain any injunctive relief here. InfiLaw has represented to this Court that Charlotte School of Law cannot resume operations for reasons relating to state licensure and federal student loans, neither of which the ABA controls or directs. InfiLaw is judicially estopped from taking an inconsistent position here. *Lowery v. Stovall*, 92 F.3d 219, 223 (4th Cir. 1996). And, while InfiLaw purports to seek injunctive relief for the benefit of Arizona Summit and Florida Coastal, InfiLaw has dismissed *with prejudice* all claims it asserted on behalf of those schools. Those dismissals have preclusive effect. *Harrison v. Edison Bros. Apparel Stores*, 924 F.2d 530, 534 (4th Cir. 1991); *Citibank, N.A. v. Data Lease Fin. Corp.*, 904 F.2d 1498, 1501 (11th Cir. 1990). Accordingly, there is no injunctive relief the Court could order against the ABA that would benefit InfiLaw or Charlotte School of Law.

DATED: March 4, 2019

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

s/ Anne E. Rea

Anne E. Rea